

The 10th June, 1982

No. 9(1)-82-6Lab/4914.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s Manohar Singh, Contractor, son of Shri Sardara Singh Bhatia, Mohalla opposite Raja Ram Ki Kothi, Jagadhri Road, Yamunanagar, (ii) Shri Joginder Singh contractor, c/o Ballarpur, Industries unit Shri Gopal, Yamunanagar.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 72 of 1980 (345 of 1981) 73 of 1980 (346 of 1981), 74 of 1980
(347 of 1981), 75 of 1980 (348 of 1981), 76 of 1980 (349 of 1981),
77 of 1980 (350 of 1981)

Between

SARVSHRI GIAN CHAND, BRIJ LAL, MUSAFIR, CHAMPAT, LAL CHAND
SUKHDEV WORKMEN, AND THE RESPONDENT MANAGEMENT OF M/S
(i) MANOHAR SINGH CONTRACTOR, SON OF SHRI SARADARA SINGH BHATIA,
MOHALA, OPPOSITE PANDIT RAJA RAM KI KOTHI, JAGADHRI ROAD, YAMUNA
NAGAR, (ii) SHRI JOGINDER SINGH, CONTRACTOR C/O BALLARPUR PAPER
INDUSTRIES, UNIT SHRI GOPAL, YAMUNA NAGAR.

Shri Balbir Singh, for the workmen.

Shri Subhash Chander, for the respondent management.

AWARD

These references No. 72/80, 73, 80, 74/80, 75/80, 76/80, 77/80 has been referred to the Labour Court, Rohtak, by the Hon'ble Governor of Haryana,—*vide* his order No. ID/Ymn/32-79/15729, ID/Ymn/36-79/15736, ID/Ymn/35-79/15743, ID/Ymn/34-79/15750, ID/Ymn-37-79/15757, ID/Ymn/33-79/15764, dated 1st April, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947, existing between Shri Gian Chand, Brij Lal, Musafir, Champat, Lal Chand, Sukhdev and the management of M/s. (i) Manohar Singh Contractor, son of Shri Sardara Singh, Yamuna Nagar, (ii) Shri Joginder Singh, Contractor, C/o Ballarpur Paper Industries Unit Shri Gopal, Yamuna Nagar. The terms of the references were :—

Whether the termination of services of Shri Gian Chand, Brij Lal, Musafir, Champat, Lal Chand, Sukhdev, were justified and in order ? If not, to what relief are they entitled ?

On receiving these references, the Labour Court, Rohtak, issued the notices to the parties. The parties, appeared and filed their pleadings. The case of the workman according to the demand notice and claim statement are that they were appointed in the year 1970 by the Contractor in the Coal Department of Ballarpur Paper Unit Shri Gopal, Yamuna Nagar, and drawing Rs. 350 per month. The contractor Coal Department for loading and un-loading terminated the services on 6th October, 1978 verbally and violated the section 25-F of Industrial Disputes Act and after two months of illegal termination the respondent No. 2 took the contract of Coal Department and also refused to consider the demand for employment. The action of the respondent is quite illegal and unjustified in every way, so they are entitled for the reinstatement with continuity of service and full back wages and continuity of service.

The case of the respondent No. 1 Shri Manohar Singh, Contractor, is that he took the contract on 25th July, 1978 and worked up to 6th October, 1978. The workman were working on the Coal Depot when he took the contract and when he left the contract due to losses he asked the workers that he is leaving the contract. There is no question of appointment of these workmen by the respondent and he does not know who has appointed these workmen. The respondent No. 1 had no work as he has left the contract so he verbally asked the workers that he had no work with him. So the workers did not work with the answering respondent for such a long time.

The respondent No. 2 Shri Joginder Singh stated in his written statement that there is no relationship of master and servant between the parties as he has not engaged or employed the claimants. The respondent No. 2 took the contract on 7th October, 1978 whereas the claimants claim that they were terminated on 6th October, 1978 so there is no relationship between the parties and the reference is bad in law.

On the pleadings of the parties, following issues were framed :—

1. Whether the relationship of employer and employee exists between the workmen and the respondent No. 2.
2. As per reference ?

Reference No. 72, 73, 74, 75, 76 and 77 of 1980 were consolidated by my predecessor on 16th September, 1981 and there is order that the evidence shall be recorded in reference No. 72 off Shri Gian Chand. This case was transferred to me by Haryana Government Order No. I(79)-80-I-Lab, dated 20th October, 1981 and after receiving these references I recorded the evidence of the management and the workman and heard the arguments and my findings on the issues are as under :—

Issue No. 1—

Issue No. 1—Issue No. 1 is whether there is relationship of employer and employee exist between the workmen and the respondent No. 2. On this issue the representative of the respondent No. 2 argued that he took the contract of this coal Depot on 7th June, 1978 whereas in the demand notice the workman has stated that their services were terminated 6th October, 1978 before taking the contract of the coal Depot so it is clear that these workmen were not appointed by the respondent No. 2 and not terminated so it is clear that the respondent No. 2 has got no relationship with these workmen of employer and employee. He further argued that the workmen in their statement as WW-1, WW-2 and WW-3 has admitted in his cross examination that the contractors come and go one after another and they continued their work but in the case the respondent No. 2 the respondent engaged his own labour on the contract because the terms and condition of these workmen were not fitting to the respondent and he had his own labour to depute on the work. So there is no relationship between the two.

The representative of the workman argued that these workmen were working in the coal department from the last 10 or 12 days and they were terminated by the respondents and not allowed the work and it is a termination. They are working with all the contractors who ever comes as contractor and the respondent No. 1 verbally asks the workmen that he is no longer required their services. It is termination after respondent No. 1, the respondent No. 2 took the contract of the coal depot and the workman approached the respondent to give the duties as they were the old employees of the coal depot but they were denied.

After hearing the arguments of both the parties, and going through the file, I am of the view that the workmen have failed to prove their relationship of employer and employees between the respondent No. 2 and the workmen. The respondent No. 2 took the contract

on 7th August, 1978 whereas the workman wrote in their demand notice that their services were terminated on 6th October, 1978 by the respondent No. 1. So this issue is decided in favour of the respondent No. 2 against the workmen.

Issue No. 2.—Issue No. 2 is as per reference. On this issue the respondent representative argued that as admitted by the workmen in their cross examination that the contractors comes and go in the coal department of the factory and they work with all the contractors and they were the employees of the contractors prove the fact that the every contractor comes and work and left the contract without any liability with him. The respondent No. 1 took the contract on 25th July, 1978 and left the same on 6th October, 1978 after two or three months because he was having a losses in the contract and left the same. When he left the contract then he left the workmen at the coal depot without any responsibility and liability and other contractors used to do. The other contractor the respondent No. 2 took the contract who refused to give the work to the workman but the case of the workman is that their services were terminated on 6th October, 1978 whereas the respondent No. 2 took the contract on 7th October, 1978 and employed his own workers at work on the depot. The workman should have impleaded the principle employer i. e. the factory itself under which this coal depot was working to tell who is responsible for these workmen. There is no term and condition and agreement between the parties by which they can enforce liability of these references. So the respondent are not liable for any relief, of these workmen because these workmen were never appointed by any of the respondent and they were not terminated by any of the respondent. It was the sweet will of the contractor to employee any workmen or deny and workman without any written arguments with the employer or with the workmen in general. There is no such agreement produced by the workman or liability shown towards the respondent by some written documents. So the respondent are not liable to give any relief to these workmen.

The representative of the workmen argued that as these workmen were working for the last 12 years in the coal depot and they were continuously working with the contractors. It was the duty of the contractors to continue their services as in the past but the respondent did not comply with the tradition made by the respondent and the contractor left the contract voluntarily saying that he is leaving the contract and the respondent No. 2 took the contract and employed his own labour at the contract snatching the facilities and animity of these workmen who were working for the last so many years, is against the principles of natural justice.

After hearing the arguments and going through the file I am of the view that the workmen were mis-lead by some such persons who had no knowledge about the line. In these references the workmen should have impleaded the principal employer i.e. the factory itself as party to answer all these thing that how the contractors work under what condition. These workmen taken by the contractors and whether these were the employees of the contractor or the principal employer. It is quite clear that un-justice has been done with these workmen that they were old employees of the coal depot which was run by the factory on contract. But there is no written agreement or terms and conditions about these workmen came before me on the file without which nothing can be done for these workmen. According to the circumstances of the case the contractor is neither liable for any relief nor he can give any relief when he left the contract. The contractors left the contract cannot reinstate the workmen or can give any facilities to these workmen. In these circumstances I decide Issue No. 2 in favour of the respondents and against the workmen as they have failed to prove their case and the reference are bad in law.

No order as to cost. This be read in answer to these references.

Dated : 1st May, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endst No. 1017, dated the 10th May, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana, Faridabad.

The 28th June, 1982

No. 9(1)-82/Lab/5614.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour, Court, Rohtak in respect of the dispute between the workmen and the management of M/s. Orgeno Chemical Industries M-3 Industrial Area (Sonapat).

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK.

Reference No. 189 of 79

between

SHRI DEVI RAM, WORKMAN AND THE MANAGEMENT OF M/S ORGENO
CHEMICAL INDUSTRIES, M-3 INDUSTRIAL AREA, SONEPAT.

Present :—

Shri Ram Sarup Lakra for the workman.

Shri M. M. Kaushal for the management.

AWARD

This reference has been referred to this court by the hon'ble Governor,—vide his order No. ID/SPT/122-79/42535, dated 26th September, 1979 under section 10(i) (c) of the I.D. Act for adjudication of the dispute existing between Shri Devi Ram, workman and the management of M/S Orgeno Chemical Industries, Sonapat. The term of the reference was—

“Whether the termination of services of Shri Devi Ram was justified and in order? if not, to what relief is he entitled.

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance, filed their respective pleadings, issues were framed and the management was asked to lead their evidence. After several dates fixed for various occasions the parties arrived at an amicable settlement on 5th March, 1982 and the statement of the authorised representative of the workmen was recorded as under.—

“The workmen settled his dispute with the management fully and finally and relinquished his right of reinstatement or reemployment. The reference may be answered accordingly.”

In view of the statement no further adjudication is required as the parties settled the dispute, referred to this court, amicably. The reference is answered and returned accordingly.

Dated : 29th May, 1982

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endorsement No. 1209, dated 1st June, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.